



FAIR POLITICAL PRACTICES COMMISSION

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October 14, 2009

Lance H. Olson
Olson Hagel & Fishburn LLP

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Re: FPPC No. 08/044, Fabian Nuñez

Dear Mr. Olson:

On January 25, 2008, the Enforcement Division received a formal complaint alleging that former Assembly Speaker Fabian Nuñez (the "Speaker") violated the contribution limit provisions of the Political Reform Act ("Act")¹ during 2005 and 2006, in connection with payments made through a non-profit organization known as Collective Space, Inc.² Specifically, the complaint alleged that contributors, some of whom had made maximum contributions to the Speaker's controlled committees, made payments through Collective Space for charitable events that featured the Speaker and benefited his political status.³ The complaint alleged that these payments qualified as "contributions" to the Speaker, and were therefore in excess of the Act's campaign contribution limits for members of the Legislature. (Section 85301). The complaint also alleged that Collective Space had lost its non-profit status by failing to file required reports, and as such, payments made to it would not be considered for charitable purposes due to its suspended status. On behalf of the Speaker, you submitted a response to the complaint on January 28, 2008 stating that the allegations were unfounded, and that the Speaker was in compliance with the Act, its regulations, and prior Commission advice.

Based on our investigation and review, it appears that the Speaker and/or his staff were involved with the events sponsored by Collective Space in 2006 and 2007 and payments were made to Collective Space at the behest of the Speaker. According to Commission advice, this is not prohibited, and the Speaker's or his staff's involvement in the event, or the inclusion of the

¹ The Political Reform Act is contained in Government Code Sections 81000 through 91014. All statutory references are to the Government Code, unless otherwise indicated.

² Collective Space Inc. ("Collective Space") is a non-profit, charitable organization organized under Internal Revenue Code section 501(3)(c), and located in Los Angeles. Its tax-exempt status was suspended in 2005 for failing to file tax returns and other required filings. During the time of the events alleged in the complaint, Collective Space's non-profit status with the state was suspended.

³ The events were Assembly Speaker Fabian Nuñez's Inaugural Youth Legislative Conference (2006), Assembly Speaker Fabian Nuñez's Soccerfest (2006), Assembly Speaker Fabian Nuñez's Toy Drive (2006), and Assembly Speaker Fabian Nuñez's Sacramento Student Summit (2007).

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Speaker's name in a charity event or its advertising, would not violate the Act or cause the payments to Collective Space to qualify as contributions. (See *Poochigian* Advice Letter, No. I-99-112; *Gallegos* Advice Letter, No. A-98-192.) As required by Section 82015(b)(2)(B)(iii), the Speaker filed "behested payment reports" for the payments received by Collective Space that totaled \$5,000 or more during 2005 and 2006.

In addition, pursuant to Section 82015 (b)(2)(B)(iii), if the payments to Collective Space were made for a "charitable purpose," the status of the charitable organization, and whether or not it is in compliance with state or federal laws, is not a determining factor. We did not find any evidence to conclude that the payments were not made for a charitable purpose, and as such, they would not qualify as contributions under the provisions of the Act.

Based on the foregoing facts and circumstances, we have determined that the allegations in the complaint are unfounded. Accordingly, our file in this matter has been closed. If you have any questions, please feel free to contact me at (916) 322-5660.

Sincerely

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Metodee A. Mathay
Staff Counsel IV
Enforcement Division

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